

**MINUTES OF THE**  
**REGULAR MEETING OF THE**  
**GOVERNING BODY**

**Santa Fe, New Mexico**

**January 29, 2003**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico was called to order on this date at approximately 4:00 p.m. in City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

**Members Present:**

Mayor Larry A. Delgado  
Councilor Carol Robertson Lopez, Mayor *Pro Tem*  
Councilor Patti J. Bushee  
Councilor Miguel M. Chavez  
Councilor David Coss  
Councilor Karen Heldmeyer  
Councilor Matthew E. Ortiz  
Councilor David Pfeffer  
Councilor Rebecca Wurzbarger

**Members Excused:**

None.

**APPROVAL OF AGENDA**

City Manager Jim Romero asked that Matters From the City Manager be moved to the top of the Agenda so he could introduce the City's new Water Division director.

**MATTERS FROM THE CITY MANAGER**

Mr. Romero announced the selection of Galen Buller as the new Water Division director for the City of Santa Fe. He noted that Mr. Buller, an attorney, has been under contract with the City for the last four to five years, so was well versed in some of the issues facing the community.

Mr. Buller stated that he looked forward to an opportunity to serve the City and to work with the Mayor, City Manager, Councilors, and staff at the Water Division.

Mr. Romero stated that Mr. Buller would start work officially around March 1, but would begin transitioning into the job between now and that date. He said Mr. Buller would begin interviewing people next week to fill various vacancies within the Water Division.

### **APPROVAL OF AGENDA (Cont'd)**

Councilor Wurzburger asked the Council to consider suspending the Gentleperson's Agreement so that she could introduce a resolution for immediate action at this meeting:

A Resolution Supporting That the City and County of Santa Fe Jointly Pursue Funding for a Coordinated Center for Detoxification, Assessment and Data Management for Persons in Need of Detoxification and Stabilization Services.

Councilor Wurzburger stated that she, Councilor Bushee and Councilor Heldmeyer have worked very hard on this resolution and feel it is an emergency because it has to go to the Legislature as quickly as possible.

Councilors agreed to place the resolution at the bottom of the Afternoon Session Agenda.

**Councilor Bushee moved approval of the Agenda, as amended. Councilor Wurzburger seconded the motion, which passed by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger voting for, and none against.**

[The Agenda was further amended during the Evening Session. See page 33 of these minutes.]

### **APPROVAL OF CONSENT CALENDAR**

**Upon motion by Councilor Lopez, seconded by Councilor Wurzburger, the Consent Calendar was approved, as amended, on the following Roll Call vote:**

**For: Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger.**

**Against: None.**

- a) Bid Opening No. 2003/16/B – SCBA Air Compressor for Fire Department; First In, Inc.
- b) Bid No. 2003/17/B – Oil Separator and Sediment Interceptor for Fire Station #1; Henderson Construction Company, Inc.
- c) Bid No. 2003/19/B – 4MG Hospital Tank Rehabilitation for Water Division; Lone Mountain Contracting, Inc.
  - 1) Request for Approval of Budget Transfer – Project Fund.
- d) Bid No. 2003/20/B – Sodium Fluoride for Water Division; DPC Industries, Inc.
- e) Bid No. 2003/21/B – Salt for Water Division; DPC Industries, Inc.
- f) Bid No. 2003/23/B – Liquid Aluminum Sulfate for Water Division; DPC Industries, Inc.
- g) Bid No. 2003/24/B – Soda Ash for Water Division; DPC Industries, Inc.
- h) Bid No. 2003/25/B – Hydraulic Pump and Vacuum System for Water Division; Vacuum Source, Inc.
- i) Bid No. 2003/28/B – Sodium Permanganate for Water Division; DPC Industries, Inc.
- j) Request for Approval of Grant Award – ArtWorks Program; Robert T. Coffland and Mary Hunt Kahlenberg.
  - 1) Request for Approval of Budget Increase – Grant Fund.
- k) Request for Approval of Sole Source Procurement – Gas Engine With Spare Parts for Water Division; Stewart & Stevenson.
  - 1) Request for Approval of Budget Adjustment – Project Fund.

- l) Request for Approval of Procurement Under Federal Price Agreement — Upgrade Kits for Self Contained Breathing Apparatus for Fire Department; Scott Health & Safety.
- m) Request for Approval of Agreement — Youth Shelters and Family Services Facility Project; Santa Fe County.
- n) Request for Approval of First Amendment to Municipal Arterial Program Agreement Certification Project — Rodeo Road/Richards Avenue Intersection Improvements; New Mexico State Highway and Transportation Department.
  - 1) Request for Approval of Budget Increase/Transfer Project Fund/CIP Reallocation Fund.
- o) Request for Approval of Amendment No. 1 to Community Development Block Grant Agreement — Administration of Small Business Development Loan Programs; North Central New Mexico Economic Development District (NCNMEDD)
- p) Request for Approval of Joint Funding Agreement — Water Resources Monitoring Program; U.S. Geological Survey, U.S. Department of the Interior.
- q) Request for Approval of Amendment No. 4 to Professional Services Agreement — Stream Flowing Monitoring Services on Santa Fe River; Watershed West, LLC.
- r) [Removed by Councilor Pfeffer for discussion.]
- s) CONSIDERATION OF RESOLUTION NO. 2003-09. (Mayor Delgado)  
A Resolution Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Buckman Supplemental Well Nos. 10-13 Project.
- t) [Removed by Councilor Ortiz for discussion.]
- u) Request to Publish Notice of Public Hearing for February 26, 2003 City Council Meeting:
  - 1) BILL NO. 2003-4: An Ordinance Amending Sections 12-6-8.1, 12-6-8.2, and 12-6-8.4 of the New Mexico Uniform Traffic Ordinance Regarding Curb Loading Zones.

- 2) [Removed by Councilor Chavez for discussion.]
- 3) [Removed by Councilor Ortiz for discussion.]

### **APPROVAL OF MINUTES: January 8, 2003**

Upon motion by Councilor Bushee, seconded by Councilor Wurzburger, the Minutes of the January 8 meeting were approved, as submitted, by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzburger voting for, and none against.

### **PRESENTATIONS**

#### **Employee of the Month for January 2003 – Henry Romero, Construction Supervisor, Engineering Division, Public Works Department.**

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Mayor Delgado stated that Mr. Romero “uses the hands on approach to management, supervising and teaching as he works right alongside his employees...he’s not just there supervising, he’s actually swinging a hammer or doing some work.... He often works overtime and/or after hours so as not to disturb building occupants during construction.” He said Mr. Romero’s projects cover such City facilities as the softball concession buildings at the MRC; clubhouse patio and landscaping at the MRC; the golf course rest shelters; Veterans Memorial at the MRC, and numerous City office remodels.

Mr. Romero received a certificate for lunch at Carmen’s Pizza, a check for \$200 from the Employee Benefit Committee, and a certificate of appreciation.

### **CONSENT CALENDAR DISCUSSION**

#### **r) Request for Approval of Collective Bargaining Agreements for Fiscal Year 2003/2004.**

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- 1) **Police Officers Association (POA)**
- 2) **American Federation of State, County and Municipal Employees (AFSCME)**
- 3) **Firefighters Association (FFA)**

Councilor Pfeffer observed that the total fiscal impact of negotiating Collective Bargaining Agreements with all three unions would exceed \$2 million. He noted that, while the POA agreement was for 2003-04, the AFSCME agreement was for 2003-05 and the FFA was 2003-06, and asked if the \$2+million was only for FY 2003-04.

Human Resources director Arturo Rodriguez said that was correct, and that there would be additional costs for the subsequent fiscal years. He said those costs would have to be brought to the bargaining table.

Councilor Pfeffer asked where the City would find the money.

Finance director Kathryn Raveling explained that, in accordance with the City's usual collective bargaining process, contracts are supposed to be negotiated up front in time for the next fiscal year; once the Council approves the contracts, they are the first item to go into the budget and they take priority over everything else in the budget. Ms. Raveling said the result of this is that there is very little funding for capital outlay, and positions have had to be cut in the last fiscal year.

Ms. Raveling stated that about \$1.2 million would come from the General Fund, requiring a 2.7% increase in gross receipts taxes to cover it. She said gross receipts tax revenues at the midyear point are at 6.5%, but cautioned that this could drop between now and the end of the fiscal year, as has happened in the past. She cited a 14% increase at the midyear point in 2001 that dropped to 2.5% by the end of the fiscal year. Ms. Raveling said she thought 2.7% was a reasonable goal, however, based on a projected increase in revenues at the midyear point of 2%.

Councilor Wurzbarger commented, then, that if gross receipts tax revenues by June 30, 2003 are only around 2.7%, the City could be facing the same staffing situation it has been facing in the current fiscal year, where many vacant positions have gone unfilled.

City Manager Jim Romero acknowledged that positions did go unfilled as a way of making up revenue shortfalls from the prior year; however, based on the 6.5% increase in revenues at this point, the City is beginning to fill various key positions.

Mr. Romero stated that he and Ms. Raveling have different theories on the revenue picture, and he felt comfortable that year-end figures would exceed 2.7%.

Councilor Wurzbarger said she hoped Mr. Romero was right, because she did not want to see the City go through another year of not having necessary staff on board.

Councilor Wurzbarger asked if there was a Christmas bonus in this package, and Ms. Raveling responded that it did not, nor did it include language saying, in effect, "we'll look at it later."

Mr. Rodriguez said it was the intent at the bargaining table that bonuses would not be an issue for the upcoming fiscal year.

**Councilor Coss moved for approval. Councilor Bushee seconded the motion.**

Councilor Bushee commented to Ms. Raveling, "I also know that we have concerns on the national front and what that might do to the economy, but I think your approach is cautious enough that we really don't have to worry."

Councilor Pfeffer said he understood Management's direction was simply to "go negotiate" with Labor, and he did not think this was good fiscal planning. He pointed out, "We don't know where the money's going to come from. If it comes from where it always came from, it means that staff positions will go unfilled; services will be shortchanged and will not be delivered.... I would think that reasonable policy would be to know where the money is before you spend it." He commented that the U.S. will likely be at war between now and the end of the fiscal year, and that could significantly impact gross receipts tax revenues.

Councilor Pfeffer stated that, in the future, Management should be given specific direction in terms of fiscal parameters. He said a private business cannot address its fiscal needs in this way, nor should the City.

**Councilor Pfeffer proposed an amendment that there be explicit language in the agreements saying that these agreements cover Christmas bonuses, and already include Christmas bonuses for the years of the agreements.**

**The amendment was *not* accepted as friendly.**

Councilor Coss expressed concern that such an amendment would put the City Manager in the position of bargaining in bad faith.

AFSCME vice president Ron Peña clarified that "there will not be a Christmas bonus this year."

Councilor Lopez recommended that the “Time Off to Vote” paragraph be amended to delete “between the opening and closing of the polls” so that taking the two hours off to vote could also be applied to early voting and not just Election Day. She said this would clear up past confusion.

Mr. Rodriguez responded that employees were given administrative approval for early voting this year, and were given two hours for that, and this would continue.

City Attorney Bruce Thompson stated that attempting to change these agreements unilaterally at this point would create a bad faith bargaining problem.

To accommodate Councilor Lopez’ concern, Mr. Romero offered to meet with the Union leadership and put together a memorandum of understanding to attach to the current agreements.

Mr. Thompson clarified that they could enter into discussions about how that should be changed, but it would be bad faith to announce the results of that now.

Councilor Bushee said she understood that some positions in City government have not been kept vacant because of budgetary concerns, and Mr. Romero responded that this was correct; that the City has had a hard time getting people to apply for some positions even though the City has advertised for them.

Mr. Wurzbarger said she recognized that, but also recalled the City Manager saying that not filling some positions was part of a strategy to balance the budget.

**The motion passed on the following Roll Call vote:**

**For: Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee.**

**Against: None.**

**t) CONSIDERATION OF RESOLUTION NO. 2003-10.**

**(Councilor Heldmeyer, Councilor Bushee and Councilor Pfeffer.)**

**A Resolution Requesting Formal, Official Designation of an Existing Bike and Pedestrian Trail System as the La Tierra Trail and Directing**



**Staff to Maintain and Improve the Trails.**

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**1) Request for Approval of Budget Increase – Project Fund.**

**Councilor Ortiz moved for approval. Councilor Bushee seconded the motion.**

**Councilor Ortiz proposed the addition of the following language:**

**Section 5. Nothing contained herein shall be construed to interfere with, nor shall any construction of any portion of the La Tierra Trail interfere with, any future affordable housing options on any City-owned land within the Northwest Sector.**

Councilor Ortiz said he wanted to make sure there was language covering any future options for developing this tract for affordable housing. He stated that he did not think it the intention of the sponsors to foreclose any opportunities to develop in the Northwest Sector.

**The amendment was *not* accepted as friendly.**

Councilor Bushee said she thought the Parks, Open Space, Trails and Recreation Master Plan and this particular trail would probably supersede any development in the Northwest Quadrant, and so development would probably be worked in around that.

Councilor Heldmeyer questioned why Councilor Ortiz was raising this issue, since it was not really an issue. She said his remarks that this trail would foreclose affordable housing opportunity in the Northwest Quadrant amounted to a “scare tactic.”

Councilor Ortiz commented that he thought his language would ensure that future Councils would be able to consider whether or not a particular trail in a buildable area of the Northwest Quadrant should be reconfigured to accommodate affordable housing.

**Councilor Ortiz moved his amendment. Councilor Lopez seconded the amendment.**

Councilor Coss said he was assuming Councilor Ortiz’ motion was saying that a trail would simply be relocated and rerouted a little bit, since a trails system would obviously be an asset to an affordable housing development.

Mayor Delgado commented that he thought that was precisely Councilor Ortiz' intent.

Councilor Wurzbarger said she appreciated that, because she did not want to see a trail, that could otherwise be rerouted, interfere with her own higher-level objective of having affordable housing in that area.

**Councilor Heldmeyer proposed the following language instead:**

**If the trails are on land that is used for affordable housing, that first priority be given to retaining the trails the way they are; if that is not possible, and trails need to be relocated, they will be relocated in the same extent and the kind of trail as currently exists.**

**Councilor Ortiz proposed to add to that:**

**All efforts under this section shall be to relocate the trails in the event trails need to be relocated.**

**Councilor Heldmeyer did not agree to Councilor Ortiz's language.**

**Councilor Heldmeyer then moved her amendment.**

**The amendment was accepted as friendly.**

**Mayor Delgado asked that a Roll Call be taken on the amendment, which passed as follows:**

**For: Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee; Councilor Chavez.**

**Against: None.**

**The resolution, as amended, passed on the following Roll Call vote:**

**For: Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee; Councilor Chavez; Councilor Coss.**

**Against: None.**

**u) Request to Publish Notice of Public Hearing for February 26, 2003  
City Council Meeting:**

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- 2) BILL NO. 2003-5: An Ordinance Amending Chapter 28 SFCC 1987 Establishing Minimum Wage Requirements for all Businesses Who Obtain a Business License or Business Registration From the City of Santa Fe Who Employ Ten or More Workers or, in the Case of Non-profit Businesses, Who Employ Twenty-five (25) or More Workers. (Councilor Ortiz, Councilor Coss and Councilor Chavez)**
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**Councilor Chavez moved for approval. Councilor Ortiz seconded the motion.**

Councilor Chavez said he hoped businesses would do their part by supporting this ordinance, especially in the face of the increased cost of living and housing in Santa Fe. He stated that he hoped other Councilors would also give their support.

Councilor Heldmeyer stated that the amendments to this bill have greatly improved it, and she would support it.

Councilor Bushee asked when there would be public hearings at the committee level on this important legislation.

Councilor Chavez responded that the Finance Committee and Public Works Committee have already allowed public comment, "but I guess if Councilor Bushee is asking for something in flashing lights and bells and whistles that says Public Hearing, that's fine."

Councilor Ortiz said he failed to see the logic of holding public hearings at the Public Utilities Committee or the Public Works Committee. He stated that the public has already addressed the Finance Committee.

Councilor Lopez pointed out that the Finance Committee meeting in question was not advertised as a public hearing.

Councilor Lopez, chair of the Finance Committee, asked that a public hearing be advertised for the February 3 Finance Committee meeting and that a second public hearing be held on February 17 if there were still matters to discuss.

Councilor Lopez asked City Attorney Bruce Thompson to render a legal opinion with respect to the City's authority in this matter under its Charter, so the matter could be put to rest either way. She said someone showed her some statutory language today that raised some concerns.

Mr. Bruce Thompson responded that he received a call yesterday from the Attorney General's Office asking that specific question. He said there have been legislative inquiries with respect to Article 10 Section 6 of the New Mexico Constitution, which sets out home rule powers. He stated that he did not have an answer based on the question that came to him yesterday, but he would look into this issue. He said Councilor Bushee has also asked him for a legal opinion with respect to a number of different issues in this area.

**The motion then passed on the following Roll Call vote:**

**For: Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer.**

**Against: None.**

**u) Request to Publish Notice of Public Hearing for February 26,  
2003 City Council Meeting:**

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- 3) RESOLUTION NO. 2003-\_\_\_\_. (Councilor Chavez, Councilor Heldmeyer, Councilor Bushee, Councilor Coss, Councilor Pfeffer and Councilor Lopez.  
A Resolution Approving the National Pollution Discharge Elimination System Plan and Submitting an Application for a Permit From the U.S. Environmental Protection Agency.**
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Responding to questioning from Councilor Ortiz, City Planner Marian Shirin stated that this Plan has been through the committee process, although it was postponed at the Public Utilities Committee. She stated that, because of the holiday meeting schedule, there was not time to bring it back to the PUC before the Finance Committee reviewed it; however, the Finance Committee recommended that it go forward to meet the March 10 deadline.

Ms. Shirin also clarified that the ordinance that will set the rate structure, establishing the means of financing the Plan, will follow this by about a month.

Councilor Ortiz said he thought this should receive further committee review between now and the rate structure ordinance because it represented a commitment of more than \$33 million and about 22 positions. He stated that several items in the Plan were discretionary, in his opinion.

Councilor Ortiz suggested that the notice of public hearing for February 26 be approved but that further discussion take place at the Finance Committee in the interim.

Councilor Chavez commended Ms. Shirin's efforts in putting this Plan together over the last six months. He pointed out that this Plan was federally mandated; and while some aspects of it could be phased in, it was important to meet the March 10 deadline.

**Councilor Ortiz moved for approval to publish notice of public hearing with the understanding that the details of the Plan could be reviewed such that by February 26 all outstanding issues would be resolved.**

**Councilor Bushee seconded the motion, which passed on the following Roll Call vote:**

**For: Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez.**

**Against: None.**

*[Conclusion of Consent Calendar discussion.]*

#### **CONSIDERATION OF RESOLUTION NO. 2003-11.**

**(Councilor Heldmeyer)**

**A Resolution Amending the Membership Requirements of the Parks Advisory Committee.**

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Councilor Heldmeyer stated that, because of redistricting, some of the membership of the Parks Advisory Committee was essentially districted out, and this was an attempt to rectify that. She commented that the committee has not met for the last few months due to the lack of a quorum.

Councilor Heldmeyer moved for approval. Councilor Lopez seconded the motion, which passed on the following Roll Call vote:

**For: Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz.**

**Against: None.**

**CONSIDERATION OF RESOLUTION NO. 2003-12.**

**(Councilor Wurzburger, Councilor Bushee, Councilor Heldmeyer.)**

**A Resolution Supporting That the City and County of Santa Fe Jointly Pursue Funding for a Coordinated Center for Detoxification, Assessment and Data Management for Persons in Need of Detoxification and Stabilization Services.**

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Councilor Wurzburger stated that this was a follow up resolution to the meeting held between the County and City to explore how to proceed with the CARE Connection project and, particularly, the detox center, which is a priority of the City.

Councilor Wurzburger recommended going forward to the Legislature and to collaboratively seek funding to obtain capital and operating funding for a coordinated center for detoxification, assessment and data management for the citizens in need of detox and stabilization services.

Addressing the \$500,000 set aside by the City for a detox center, Councilor Wurzburger proposed inserting the following language:

**Whereas, if the sobering center portion of the CARE Connection opens within 18 months of the date of this resolution, the City of Santa Fe is willing to allocate \$500,000 in capital funds to help pay for the building renovation and furnishings that are required by that center.**

Mayor Delgado asked if he was correct that the City would not be involved in the operations of the sobering center, and Councilor Wurzburger said that was correct.

City Attorney Bruce Thompson recommended that the reference to the \$500,000 be within the resolution itself rather than in the “whereas” clause.

Councilor Bushee noted that the Governing Body suspended its Gentleperson's Agreement, requiring Governing Body members to introduce bills and resolutions one meeting in advance, to accommodate the emergency nature of this resolution, which would seek funds from the current Legislative Session.

Councilor Heldmeyer pointed out that, if the County does not put the sobering center in place within the 18-month time frame set in the resolution, the \$500,000 would revert back to the CIP budget for application to any social service building.

Councilor Heldmeyer recommended that the City be more aggressive and proactive in its negotiations with the County and in doing its own research. She commented that the City's passive approach "of sitting back and waiting until the County proposes something" has hurt the City financially in the past.

**Councilor Wurzburger moved for approval of the resolution, with the amendment. Councilor Heldmeyer seconded the motion, which passed on the following Roll Call vote:**

**For: Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer.**

**Against: None.**

#### **MATTERS FROM THE CITY ATTORNEY**

#### **EXECUTIVE SESSION**

- 1) Discussion of Acquisition of a 0.176-Acre Parcel and a 0.038-Acre SME From Ryon Rich for the Governor Miles Road Extension  
Project No. CIP 835A Pursuant to NMSA 1978, §10-15-1(H)(8).**
- 2) Discussion of Status of Pending Litigation in *The New Mexican* vs., City of Santa Fe, Upcoming Trial and Possible Settlement  
Pursuant to §10-15-1(H)(7).**

City Attorney Bruce Thompson asked the Governing Body to go into Executive Session in order to address the above-cited matters.

Councilor Lopez so moved. Councilor Bushee seconded the motion, which passed on the following Roll Call vote:

**For: Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger.**

**Against: None.**

*[The Governing Body went into Executive Session at approximately 5:40 p.m. and came out of Executive Session at the beginning of the Evening Session.]*

### **EVENING SESSION**

The Evening Session of the City Council Meeting was called to order at approximately 7:00 p.m. on the Main Floor of Sweeney Center. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

#### **Members Present:**

Mayor Larry A. Delgado

Councilor Carol Robertson Lopez, Mayor *Pro Tem*

Councilor Patti J. Bushee



Councilor Miguel M. Chavez  
Councilor David Coss  
Councilor Karen Heldmeyer  
Councilor Matthew E. Ortiz  
Councilor David Pfeffer  
Councilor Rebecca Wurzbarger

**Members Excused:**

None.

**MOTION TO COME OUT OF EXECUTIVE SESSION**

**Councilor Ortiz moved to come out of Executive Session. Councilor Lopez seconded the motion, which passed by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbarger voting for, and none against.**

**Councilor Ortiz moved that, with regard to the following item,**

Discussion of Status of Pending Litigation in *The New Mexican* vs., City of Santa Fe, Upcoming Trial and Possible Settlement Pursuant to §10-15-1(H)(7).

**counsel be authorized to settle the matter, and to affirm the commitment that was made by a previous Governing Body as contained within ordinance section 2-1.17(A), in which litigation settlements shall be a matter of public record subject to inspection; and that the City Attorney be directed to make an offer of judgment to *The New Mexican* in an amount no greater than \$30,000.**

**Councilor Lopez seconded the motion.**

Councilor Bushee reminded the public that the City adopted an ordinance in 1998 that made it a policy that the City Council would make settlements open to the public for inspection. She said she hoped this settlement “is taken in the context of the fact that this government has been operating as an open government with regard to any settlements for some time, now. I understand there are lawyer’s fees involved, but I hope they would take that in good faith, and perhaps they’d even like to donate that offer to some charity here in the city.”

**The motion passed on the following Roll Call vote:**

**For: Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Bushee.**

**Against: None.**

**Abstaining: Councilor Wurzburger.**

Councilor Wurzburger said she had abstained because she was not present during the Executive Session.

Addressing the following item,

Discussion of Acquisition of a 0.176-Acre Parcel and a 0.038-Acre SME From Ryon Rich for the Governor Miles Road Extension Project No. CIP 835A Pursuant to NMSA 1978, §10-15-1(H)(8).

**Councilor Heldmeyer moved to authorize legal staff to make an offer for the amount recommended. Councilor Lopez seconded the motion, which passed on the following Roll Call vote:**

**For: Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Bushee; Councilor Chavez.**

**Against: None.**

**Abstaining: Councilor Wurzburger.**

Councilor Wurzburger said she had abstained because she was not present during the Executive Session.

## **PETITIONS FROM THE FLOOR**

### **Cliff Mills**

Mr. Mills stated that, as the only member of the vending community to vocally support the new Plaza Vendor Ordinance, "I feel terrible that an old-time artist, Carmelita, was eliminated from the program. I supported the ordinance believing that the selection criteria of experience, diversity and compatibility would protect those with longevity in the program." He stated that each participant in the program is required to include a signed statement of process and materials with each sale, and he understood that the City would then enforce the ordinance and that participants would be eliminated based on their unwillingness to comply with authenticity. He petitioned the Council to "right a

wrong and open a new space on the Plaza while we discuss equity issues as provided for in the new ordinance.”

Marianne Griego

Ms. Griego, president of the Alliance for Affordable Housing, said she had reviewed the Las Soleras General Plan amendment, and was intrigued by the possibility of more affordable housing, so urged the Council to approve an amendment to the Future Land Use Map.

Ms. Griego thanked Mike Loftin of the Neighborhood Housing Trust for working with the tenants of El Seville Apartments, soon to be converted into a condominium project. She noted that, while the condos would cost between \$300,000 to \$600,000, the Borrego brothers agreed to create 11 to 15 units of affordable housing.

John Coventry

Mr. Coventry petitioned the Council to reconsider the Plaza Vending Ordinance. He said he believed Councilor Chavez had a conflict of interest when he voted for it, because previously his woodworking group would not have been allowed to have a Plaza vending license, but the change in the ordinance now would allow it. He stated that Councilor Chavez had applied for a Plaza vending ordinance prior to adoption of the ordinance, and had indicated that he might apply for a license in the future. He stated that Councilor Chavez therefore stood to gain financially from his vote, and should have recused himself.

Mr. Coventry also said he has been trying for two months to get the correct form to petition a referendum election to repeal the Plaza Vending Ordinance. He accused the City Clerk of “stonewalling my efforts for 60 days so that when I finally did get the form, it was too late to apply.”

Doug Doran

Mr. Doran, 147-K Calle Ojo Feliz, Santa Fe, petitioned the City Council for a resolution of support of the public campaign to uphold Article 6 of the non-proliferation treaty on nuclear weapons in order to stop development of such weapons at Sandia Laboratories.

Mr. Doran stated that, under the Geneva Convention of 1977, Additional Protocol #1 (Crime of Indiscriminate Attack) reads: “1. An attack that is not

targeted at military objectives, damage to civilian property that is actually intended.... 2. Use of weapons that are not able to be properly targeted. 3. Use of weapons that have uncontrollable effects. 4. An attack that treats an area with similar concentrations of military civilian objectives as a single military objective. 5. An attack that may be expected to cause harm to civilians or civilian objectives in excess of a concrete and direct military advantage anticipated.”

Mr. Doran submitted documentation to the Council. [Not available for record.]

Carmelita Laura Valdez Damron

Ms. Damron stated that she was an award-winning *retablo* artist, and was deeply disappointed at what the new Plaza Vendor’s Ordinance had done to her personally: “The scoring was done unfairly and not according to what the ordinance says. Sebastian Gurulé stood before you at one of the meetings and said that this ordinance would not hurt any one of us. Well, it has. It has hurt me. My livelihood has been taken away from me. I’m too old to get another job and I will probably lose my home.”

APPOINTMENTS

None.

PUBLIC HEARINGS

**Request From JDAP, Inc. for a Restaurant (Beer & Wine) License to be Located at Joe’s Diner and Pizza, 2801 Rodeo Road, Suites A-4 and A-5.**

City Clerk Yolanda Vigil called attention to staff’s recommendation that it be noted that Joe’s Diner and Pizza is required to comply with the City’s litter and noise ordinances as a condition of doing business in the City.

There was no public comment.

**Councilor Ortiz moved for approval. Councilor Wurzburger seconded the motion, which passed on the following Roll Call vote:**

**For: Councilor Heldmeyer, Councilor Ortiz, Councilor Pfeffer, Councilor Wurzburger, Councilor Bushee; Councilor Chavez; Councilor Coss.**

**Against: None.**

**Not present for the vote: Councilor Lopez.**

**Request From Firestone Liquor Company, LLC, for a Transfer of Ownership of Dispenser License #2675 From Firestone Trust to Firestone Liquor Co., LLC. This License Will Remain at Firestone Place, 100 North Guadalupe.**

City Clerk Yolanda Vigil called attention to staff's recommendation that it be noted that this corporation is required to comply with the City's litter and noise ordinances as a condition of doing business in the City.

There was no one wishing to speak for or against this application.

**Councilor Bushee moved for approval. Councilor Chavez seconded the motion.**

Councilor Heldmeyer noted that, the last time this license came up, the applicants had to agree to keep the liquor in one part of the building and not the other part in order not to be within 300 feet of a church. She asked Ms. Vigil if that was still part of the agreement.

Ms. Vigil responded that the Council could specify that as a condition of approval.

Representative Linda Aiken was sworn and clarified that this was a transfer of ownership only, so it would be restricted to a part of the building. She stated that, had this been a request to expand to include more of the building, it would have been called a transfer of location, and the applicants would have had to request a waiver from the City Council.

**Councilor Heldmeyer proposed a condition of approval that the applicant agree to keep the liquor in a part of the building that is not within 300 feet of the church.**

**The condition was accepted as a friendly amendment.**

**The motion, as amended, then passed on the following Roll Call vote:**

**For: Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer.**

**Against: None.**

**Not present for the vote: Councilor Lopez.**

**Case #AB-2002-04. Rodeo Business Park-South, End of Rodeo Park Drive East. An Appeal by Mark Basham, Esq., Agent for St. Vincent Hospital, St. Vincent Auxiliary, and Su Vida Regarding the Board of Adjustment's October 16, 2002 Approval of a Special Exception and Master Plan to Permit a 42,000 Sq. Ft. Twenty (20) Bed Acute Care Medical/Surgical Hospital Re: (Case #SE-2002-06), and Dismissal of the Governing Body's Request to Review the Planning Commission's Final Order in Case #M 2002-18, Physicians Medical Center.**

Mayor Delgado imposed a time limit of 30 minutes on legal presentations for each side, including rebuttal time. He said the legal presentations would be followed by public comment, with a one-minute time limit imposed on speakers based on the number of people indicating that they wished to address the Council.

Councilor Ortiz disclosed that he has spoken with representatives for the Physicians Medical Center as well as representatives for the appellant within the seven days, and has listened to both sides. He further disclosed that, since he has been in private practice for five years, he has represented and continues to represent the bargaining unit that consists of the nurses and technical employees at St. Vincent Hospital. He said he nonetheless felt that he could be fair and impartial and could give both sides equal consideration.

Councilor Chavez disclosed that his wife works for St. Vincent Hospital. He said he felt he could make a fair and impartial judgment based on the information and testimony that will be given tonight. He further disclosed that he was contacted by both sides, but did not meet with either side.

Councilor Pfeffer disclosed that he has met with both sides on this issue, but he did not think it was within the last seven days.

Mayor Delgado remarked that he thought that was “pretty much the case for all of us here.”

Zoning officer Eddie J. Romero presented his report to the Council, noting that the Board of Adjustment on October 16, 2002, approved a special exception and master plan request by Physicians Medical Center, thus permitting a hospital use for a facility with fewer than 50 beds. *[Report submitted as Exhibit “A” to these minutes.]*

Mayor Delgado asked Council to pose any questions to staff at this time.

Councilor Bushee asked City Traffic Engineer Rick Devine to discuss traffic impacts to the site in question.

Mr. Devine responded that a traffic study was done for the entire Rodeo Road Business Park in 1990, and an update was done prior to this application from Physicians Medical Center. He stated that, according to the update, “the projected traffic that was approved for the Business Park in 1990, we are still below that traffic level with the proposed hospital.”

Councilor Bushee asked if traffic calming features could be considered for this area, and Mr. Devine responded that this could certainly be discussed.

This concluded questioning of staff.

Mayor Delgado asked legal counsel for the appellants to address the Council.

Attorney Mark Basham, representing the appellants, was sworn. He stated that his 30-minute presentation would include his legal argument followed by testimony from the St. Vincent Hospital administrator and others.

Mr. Basham submitted a paper regarding *Burroughs v. Board of County Commissioners*, “a New Mexico Supreme Court case that has not been distinguished or overturned and thus remains good law and controlling precedent and is therefore relevant and applicable to the matter before you.” He noted that PMC has not cited nor distinguished this case in any of the four legal briefs it has submitted to the City because it would hurt their case while helping the Council should the Council decide to reverse the Board of Adjustment’s decision. *[Paper submitted as Exhibit “A.1” to these minutes.]*

Mr. Basham stated that *Burroughs* “says that the granting of a special exception is a legislative process or legislative function. It is not, as PMC would have you believe, a quasi judicial proceeding.” He said this gives the Council broader discretion in making its decision to include issues other than land use issues.

Mr. Basham said, “PMC has argued that because you are applying the code to a specific piece of property, that inherently this is a definition of a quasi judicial proceedings. Well, in *Burroughs* the exact same thing occurred. That is, they applied their code to a specific piece of property in deciding whether to grant a special exception for an overnight campground, and that was held to be a legislative act.”

Mr. Basham said *Burroughs* also says “special exceptions are allowable to serve the general good and welfare rather than individual interests. This requirement has been adopted by the City of Santa Fe. It is found in Santa Fe City Code as Section 14-3.6(B), which states, ‘A special exception shall not be granted unless and until a finding is made that the granting of the special exception will not adversely affect the public interest.’ Notwithstanding *Burroughs* and Section 14-3.6(B), PMC will argue that you cannot consider anything but those things listed in the, quote, approval criteria relating to parking, drainage and the like; that is to say those things that might impact its immediate neighbors.

“But *Burroughs* gives you broader discretion than that, as does Santa Fe City Code, Section 14-1.4.... which essentially states that the, quote unquote, approval criteria that PMC claims to have met are minimum standards, which in turn means you can consider other issues, and 14-3.6 dictates that you must consider general welfare and public interest issues.

“PMC’s attempts to limit you to the minimum standards would make the language of 14-3.6 obsolete. The *Burroughs* Case states that an entire ordinance is to be read as a whole, and each part constructed in connection with every other part so as to produce a harmonious whole....

“Remember: the granting of a special exception is discretionary. Thus, the applicant must prove to you that the granting of this special exception will serve the general welfare and public interest of our community as a whole.... As the New Mexico Supreme Court stated in the case of *City of Santa Fe v. Gamble-Skogmo*, the term general welfare has not been exactly defined by the reason of the same definitive problem expressed in *Arnold v. Board of Bar Examiners* regarding the phrase, affected with the public interest. In *Arnold*, the Court stated that the phrase, public interest, ‘can never be given an exact definition.



This is probably desirable when we reflect upon the constant and ever-changing conditions of our social and economic structure.'

"There can be no question that, when one considers what is in the public interest or general welfare of community, this consideration must necessarily include the availability of healthcare to all of its citizens, insured and uninsured, and rich and poor alike. I suggest to each of you that the applicant cannot meet its burden."

Addressing PMC's argument that the City Council could not regulate competition, Mr. Basham cited *Jacobs v. City of Lawrence*, a 10th Circuit case that the City of Santa Fe "relied heavily on in defense of the Los Vecinos case." He quoted as follows: " 'It is generally recognized that the power to zone and rezone necessarily has foreseeable anticompetitive effects. In *Jacobs* the Court upheld the city's denial of a development plan for a shopping center at the edge of town because the council expressly found that it would threaten the downtown's role as a retail core of the city.' Thus, as long as the focus of this City Council is the public interest or general welfare as a whole, it need not be concerned with any resulted restriction on competition.

"What exactly is PMC? It is a proposed limited service for-profit hospital. St. Vincent, on the other hand, offers all general hospital services and is a nonprofit dedicated to providing services regardless of an individual's ability to pay. The representatives of the limited service, for-profit hospital talk about competition being good for this community. This limited service, for-profit hospital, however, is not about competition. Essentially, this limited service, for-profit hospital wants to take St. Vincent's paying customers in a narrow lucrative hospital market niche, leaving St. Vincent holding the bag. St. Vincent, on the other hand, pursuant to its mission, will continue to serve the uninsured and the under-compensated in all areas. In addition, St. Vincent will continue to operate in those areas that provide no income at all, such as obstetrics, pediatrics and, of course, emergency care, those areas that a limited care, for-profit hospital would not provide. That is not competition, and I am dumbfounded when PMC represents themselves to the public that they are a full service or general hospital.

"The long and the short of it is that, if PMC's application is granted, it will upset the very precariously balanced ability of this City to provide healthcare to all of its citizens....

"If this special exception is granted, I do not know if it will mean that those healthcare service providers that St. Vincent helps fund to the tune of over \$1.6 million, will have to close their doors. But what I do know is that they will have

to cut the level of health services that they do provide to that portion of our community that desperately relies on them....”

*[Mr. Basham’s written argument is submitted as Exhibit “A.2” to these minutes.]*

*[See Exhibit “A.3” for list submitted by Mr. Basham of recipients of St. Vincent Community Benefit Fund Awards for fiscal year 2003.]*

John Lucas, administrator of St. Vincent Hospital, was sworn. He said, “We believe a second hospital will be adverse to the public interest. St. Vincent Hospital is a community-owned hospital. The residents of our community are the shareholders; and as such, we are a community asset to be protected and preserved.

“The St. Vincent board and management are accountable to provide benefits and services to our community in exchange for having nonprofit status and sole community provider funds. By diverting revenue, a second hospital will limit our ability to fulfill our mission. St. Vincent Hospital has fulfilled its mission faithfully for 135 years and has never turned down anyone regardless of the ability to pay.

“Our emergency department, with 65,000 visits last year, is the safety net for the community. One-third of our visits are from patients who have no primary care access for lack of insurance. We have the highest rate of non-insurance in the whole country in Northern New Mexico. We admit 600 serious trauma cases a year. We safely delivered 5,000 babies over the last three years. These are your children and grandchildren. We have provided 130 lifesaving interventional cardiology procedures to treat heart attacks since last May without a death.

“St. Vincent currently has a 90% market share of the services it provides to Santa Feans. Our nurse-to-patient staffing ratio is exemplary. We have, in critical care, two patients per nurse; in transitional care, three patients to a nurse; on our medical-surgical floors we have six patients to a nurse.”

Dr. Lucas noted that, last year, St. Vincent provided \$14 million in uncompensated care and sent \$4 million, annualized, to community health partners. He said St. Vincent spent \$2 million in supporting non-hospital-based direct services through clinics and community education programs. He said, “Our concern is that these expenses will increase year to year as there is a growing number of uninsured people in our community. If we add more costs to our community, we’re going to see premiums go up; we’re going to see employers drop insurance for their workers.

“St. Vincent Hospital needs to be financially healthy to access capital. In the next 24 months, St. Vincent Hospital plans to spend \$12 million to expand our emergency department and add 20 critical care beds. Since 2000, St. Vincent has spent \$20 million to improve the hospital, including all new imaging equipment, heart care programs, nursing unit refurbishments to increase patient comfort, \$5 million for information technology to improve patient safety and services.

“St. Vincent Hospital also needs to be financially healthy to recruit professionals. In the past year, we have recruited 15 physicians, and 56 nurses since August. Our nursing vacancy rate is 4.4%. The national rate for nursing vacancies is 11%. As a result of our successful recruiting effort, we will open 12 additional medical-surgical beds by late February. We are emphasizing nursing education. We just funded a partnership with Santa Fe Community College that will let them double their enrollment so we can get a steady stream of local people into the nursing program. As of May 2003, we will have provided an 18% salary increase for nurses.... Our average salary now is \$62,000, one of the best nursing salaries in the state. As evidence of our satisfying the public, our Foundation has been able to raise \$6 million from grateful patients over the last three years.

“A limited service hospital will not materially enhance access to care or reduce healthcare costs for all Santa Feans. A second hospital will change a formula that has been working to provide access in this community. No one is going without high quality hospital care in our community. Do not allow St. Vincent Hospital, as a community asset, to be degraded.”

Clifford Vernick, chairman of the board of directors at St. Vincent Hospital, and a retired orthopedic surgeon, was sworn.

Dr. Vernick stated that he was not aware of any plans to change the not-for-profit status of St. Vincent Hospital, nor was the hospital for sale, contrary to rumor.

Dr. Vernick said the proposed addition of a 20-bed hospital “that does not take care of really sick patients is not going to work for this community, in my opinion. It will lessen the ability of St. Vincent Hospital to maintain a full service hospital by removing income from St. Vincent Hospital. It will do little to attract new doctors, despite claims of the proponents, because most worthwhile doctors want to work in a hospital where there is a full range of services available. It will not be successful as an entity in stopping people who now currently leave Santa Fe and Northern New Mexico to seek care elsewhere, particularly in Albuquerque, because people who leave have a perception that they can receive

better care in a larger full service hospital, and sometimes those services in fact are not available in Santa Fe at St. Vincent Hospital.

“It will not foster a competitive situation because one cannot compete with an entity that is skimming off insurance-paying patients and giving St. Vincent Hospital a higher percentage of indigent and uninsured people to take care of.”

State Rep. J. Paul Taylor, residing in Mesilla near Las Cruces, was sworn.

Rep. Taylor stated that he chairs the Health and Human Services Committee and “I deal with cases which are extreme, with fragile people, with elderly people, with people with developmental disabilities, Alzheimer’s patients and others. So I’m very concerned about the welfare of people who come to St. Vincent, who come to Memorial Medical Center, and who receive services in the broadest sense.”

Rep. Taylor said the newspaper has presented misleading information about so-called mismanagement at Memorial Medical Center, which was incorrect, because Memorial was well managed with a very fine CEO. He stated that Memorial has lost 160 employees in the last few months because it is losing insured patients and Medicare patients. He said there is a serious concern that Memorial will lose its first step clinic, which treats pediatric patients and has a mobile medical center that goes to the many financially depressed *colonias* in the Sunland Park area. He said he has also been trying to find funding for the past week for the rural family residency program. Rep. Taylor also stated that Memorial’s psychiatric service program is in serious jeopardy. He said these are all community programs.

Rep. Taylor asked the Council to keep poor, sick and hungry people, as well as Alzheimer’s patients in mind in considering tonight’s appeal. He said these people need the care that St. Vincent Hospital and Memorial Medical Center can offer.

Gary Buff came forward and was sworn. Dr. Buff stated that, in response to concerns recently raised by the community, the St. Vincent board of directors last week voted to expand the scope of its membership by inviting the Board of County Commissioners and the City Council to nominate representatives to serve on the board. He said someone from the nursing profession would also serve on the board.

Dr. Buff said he would encourage the Council to help define exactly what kind of emergency service PMC is offering, because “they have heightened the expectations of the community regarding emergency services by being critical of

our service, and then offering that they will provide relief.” He said St. Vincent did not believe PMC could in fact meet the community’s expectations.

This concluded comment from the appellants’ side.

Frank Herdman, attorney representing Physicians Medical Center in this appeal, was sworn. He stated that the 30 minutes allotted to this side of the presentation would include testimony from Linda Tigges and Tony Sawtell.

Mr. Herdman said, “The appellants in this case object to the idea of a second hospital anywhere in Santa Fe based on various issues involving alleged financial impacts of another hospital, the effects of competition within the healthcare industry, access to sole community provider funds, and funding for indigent care. The appellants have not raised a single land use issue based on the development standards that are actually found in the code. They have not objected to the adequacy of parking, the amount of required open space, building heights or any similar land development issue. Instead, the appellants want you to prohibit competition by outlawing a second hospital anywhere in Santa Fe.

“There is nothing in the City Code or elsewhere in the law that gives the City the authority to do what they are asking you to do. The fact of the matter is, there are no standards of any kind contained in the City Code that would allow the Board of Adjustment or the City Council, for that matter, to address these sorts of issues. The law does not allow government to determine how a private property owner can use its land based on standards that do not exist.

“As for the public interest issue, the appellants have ignored entirely the specific land development standards that are actually found in the code. Those standards deal with land use issues such as open space, lot size, off-street parking, but not some vague and arbitrary notion of whether a purported use is adverse to the public interest.

“If the City were to decide this case based on the belief that it can regulate competition and keep new businesses from opening their doors, no doubt other existing businesses in this community would have the same expectation.... be it a gas station, a grocery market, a new doctor’s office or any other type of business. This is obviously a Pandora’s box that the City should not want to open.

“On land use issues, it is clear by state law that the City only has the powers that have been given to it by the State Legislature, and according to State Statutory law.... the regulation of funding for indigent care has been delegated to the New Mexico Human Services Department and the counties throughout the state....

“In addition, to the issues involving competition, the appellants are also saying that the notice for the September 9, 2002 ENN meeting was not posted on the property. That argument is baseless for several reasons. First, Linda Tigges is here to tell you that in fact notice was posted on the property prior to the meeting. Second, the attorney representing the appellants, Mr. Basham, was actually present at that meeting. The appellants cannot complain that they did not know about the meeting. And third, the appellants never raised this issue with the Board of Adjustment... in their petition for appeal, and they can’t raise it now.”

Mr. Herdman requested that his legal summary of January 21, 2003 to City Attorney Bruce Thompson be entered into the record. *[Submitted as Exhibit “A.4” to these minutes.]*

Mr. Herdman said that the *Burroughs* case cited by Mr. Basham “was cited in 1975, and there is a 1998 case that was decided by the New Mexico Court of Appeals in which it ruled the decision on whether to grant a special use permit, which is the same as a special exception, is a quasi judicial proceeding and not a legislative proceedings. In other words, the responsibility of the body making the decision whether to grant a special exception is to apply the existing law to the facts. It is not a legislative function.”

Mr. Herdman said he wished to emphasize that, in responding to the various issues raised by the appellants, PMC did not in any way waive its position that those issues were beyond the City’s authority and could not serve as grounds to reverse a special exception.

Linda Tigges, Tigges Planning Consultants, came forward and was sworn. She stated that the Physicians Medical Center, to be located on an approximately 4-acre tract, would have a 20-bed acute care facility with imaging, a laboratory and emergency and other services on the ground floor, and patient rooms and operating rooms on the second floor. She said this two-story flat-roof building would sit down from the buildings around it, as well as I-25, limiting its visibility.

Ms. Tigges stated that the organizers of the PMC tried to select a site with compatible neighbors and no nearby residential zoning. She said surrounding buildings included the Eye Associates, Southwest College of Acupuncture, and Open Hands day program.

Ms. Tigges said there were two ENN meetings, one with the Rodeo Business Park Owners Association. She stated that there was no opposition voiced to the

proposed Physicians Medical Center at any of the meetings. She submitted a letter from Rodeo Business Park Owners Association vice president Marc Bertram, expressing support for the proposal with some concerns. *[Submitted as Exhibit "A.5" to these minutes.]*

Ms. Tigges also submitted a detailed analysis of PMC's water conservation plan for landscaping. *[Submitted as Exhibit "A.6" to these minutes.]*

Addressing allegations that the property was not posted before the second ENN meeting, Ms. Tigges said the ENN meeting in question was scheduled for September 9, and notice was mailed to all property owners and tenants within 200 feet, including neighborhood organizations. She stated that none of the appellants owns property in Rodeo Business Park or adjoining area.

Continuing, Ms. Tigges stated, "In late August 2002, Monica Montoya of the City Planning Department made a poster for the meeting. I was disabled with an injury to my knee and asked my assistant, Daniella D'Amore, to pick up and post the sign, which she said that she did put the sign on the property at the end of Rodeo Park Drive East, where the signs were from other previous meetings. I had hired Ms. D'Amore for six months. She has relatives in Italy. She left Santa Fe in November and went to London and then to Italy and then back to Australia, where she's from, and then to the rain forest. I am not in touch with her at this time.

"I attended the ENN meeting on September 9. Mr. Basham also attended the meeting as the attorney for various organizations opposing the application. Neither he nor anyone else at the ENN meeting mentioned any problem with noticing or posting of the property, nor was this issue raised at the Board of Adjustment." Ms. Tigges stated that page 98 of the packet contained a letter on this issue from City Planner Greg Smith.

Ms. Tigges stated, in closing, "I would note that the applicant has no objection to the conditions of approval imposed by the Board of Adjustment."

Tony Sawtell, attorney with offices at 2006 Botolph Road, was sworn.

Mr. Sawtell commented, "I'd like to comment on the events that have preceded this hearing. I've never seen anything like it, and I'll bet you've never seen anything like it either, certainly not in a land use case.... Over the last two or three weeks, we've seen newspaper ads, radio ads, direct mail campaigns, telephone banks — I've read in the newspaper that there were TV ads, but I haven't seen any — postcards, 21 meetings for St. Vincent employees, and I don't know what-all else.... I don't have any idea how much money St. Vincent spent

on this. Our media blitz consisted of a few hundred flyers, a few radio spots on one station, and one ad in the newspaper today.”

Mr. Sawtell submitted a petition bearing 338 signatures supporting a second hospital in Santa Fe. *[Submitted as Exhibit “A.7” to these minutes.]*

Mr. Sawtell said he hoped the Council would take into account that “St. Vincent has outspent us ten, twenty, I don’t know how much, to one” in its campaign against the PMC proposal.

Mr. Sawtell noted that St. Vincent took out a full-page ad in Sunday’s newspapers signed by a number of members of the St. Vincent medical staff. Pointing to the St. Vincent medical staff directory, Mr. Sawtell noted that the names highlighted in red — about two-thirds of the medical staff — belonged to those did not sign the letter in the newspaper, “so it’s not quite the juggernaut that you might have perceived.”

On the status of sole community provider funds, Mr. Sawtell said, “I think at last St. Vincent and Physicians Medical Center are agreed that, while a new hospital in Santa Fe could affect the relatively small Medicare portion of those funds, a new hospital will not affect St. Vincent’s eligibility for the \$13 million or \$14 million in sole community provider funds that it receives from the New Mexico Department of Human Services.”

On that note, Mr. Sawtell submitted a January 21, 2003, memorandum from Carolyn Ingram, director of the Medical Assistance Division of the New Mexico Department of Human Services, to Liz Stefanics, deputy secretary for HSD Programs, clarifying that the State Legislature amended the State Plan, effective 1/1/02, to protect payments to Sole Community Provider Hospitals when other hospitals come into a community. *[Submitted as Exhibit “A.8” to these minutes.]*

Referring to the exhibit previously submitted by Mr. Basham listing the St. Vincent Community Benefit Fund Awards for fiscal year 2003, and Mr. Basham’s statement that he could not guarantee that the \$1.6 million in awards would not be impacted by a second hospital, Mr. Sawtell said Santa Fe County officials have clarified that the \$1.6 million “is not revenue from St. Vincent’s admissions and procedures. That is sole community provider money, 25% of which in round numbers comes from Santa Fe County, 75% of which is federal matching funds. Those grants are made through St. Vincent Hospital, but they are not made by St. Vincent Hospital, and I hope you will not be misled by that.”

Addressing St. Vincent’s argument against a second hospital because St. Vincent would lose revenues, Mr. Sawtell cited testimony by Dr. Lucas and Dr.



Buff before the Santa Fe County Commission on July 30, 2002, saying that this was “very speculative, and nobody knows what will happen if a new hospital opens in Santa Fe.”

Addressing St. Vincent’s argument that PMC would take revenues away from it, Mr. Sawtell said, “Physicians Medical Center is not going to ‘take’ anything. It’s going to give Santa Feans a choice. What they do with that choice is up to them.” He said PMC would not compete with St. Vincent in two of its most profitable areas, cardiology and neurosurgery.

Mr. Sawtell stated that PMC’s target market “is the 35% of Santa Feans and people from the surrounding communities who have already decided to go someplace other than St. Vincent for their hospital care.” He cited testimony by Dr. Lucas at the June 6, 2002, Planning Commission meeting stating that 35% of St. Vincent’s market share was going to Albuquerque. Mr. Sawtell said PMC’s competition was Ardent and Presbyterian, “so if we take a case away from Albuquerque, St. Vincent won’t lose a dime. And if somebody does decide to come to Physicians Medical Center rather than to St. Vincent, St. Vincent won’t lose a dime unless that person leaves an empty bed behind. And for most of the last two years or more, St. Vincent on most occasions has been filled beyond capacity.”

Mr. Sawtell pointed out that, in November 2000, a sign posted at the doctor’s entrance to St. Vincent Hospital announced, “Doctors: please discharge your patients. There are no beds.” He commented that, while this hasn’t been the case “every single day since November 2000, it’s been the case more often than not.” He stated that people have waited overnight and longer in the ER for a bed to open up at St. Vincent Hospital, or have been told “to go home and come back in two days.”

Mr. Sawtell also pointed out that PMC “hasn’t put a shovel in the ground yet” and already St. Vincent Hospital is planning changes that bear out PMC’s point that competition is beneficial. He said the changes, announced tonight, call for expansion of its board to include City and County representatives, 12 new medical-surgical beds, and substantial raises for the nurses.

Mr. Sawtell said PMC has pointed out that there are about 1,100 Registered Nurses in Santa Fe who keep their licenses current, and fewer than half of them are working full time. He stated that PMC felt it could attract nurses. He stated that St. Vincent’s argument “seems to be that because they’ve not been able to recruit nurses, we shouldn’t be allowed to try.”

On St. Vincent's point that PMC would be a for-profit hospital, Mr. Sawtell said St. Vincent has failed to mention that it is "a partner in several for-profit organizations right now," including a for-profit same day surgery center and a for-profit radiology enterprise. He said Dr. Lucas testified to the Planning Commission on June 6, 2002 that, of the revenues St. Vincent fears it will lose, about half is for outpatient procedures like same day surgery and radiology. He commented, "I wonder whose ox is really being gored here. If that figure is correct, then about half of the revenue loss that you have seen in the newspaper is because Physicians Medical Center will compete with these for-profit enterprises that have been conveniently omitted from the advertising."

Referring to publicity by St. Vincent that allowing PMC to locate here would result in layoffs, Mr. Sawtell cited a recent article in *The New Mexican* about Memorial Medical Center reflecting that "layoffs seem to be from management decisions that were made years ago, and that information is based upon the people at Doña Ana County who monitor the finances at Memorial Medical Center on a weekly basis if not more often." He pointed out "a new hospital that's only ramping up slowly couldn't cause the economic problems that St. Vincent claims Memorial has suffered in four months. In a period of four months, Memorial is still collecting for work that they did back in June or July. The house of cards doesn't come down that fast, even if there was a cause-and-effect relationship."

Addressing indigent care, Mr. Sawtell stressed, "Physicians Medical Center will gladly accept indigent fund patients. The Board of County Commissioners has the power to allow a for-profit hospital to apply for reimbursement for indigent care. Since St. Vincent's indigent care is all covered in sort of a block grant in these sole community provider funds, we wouldn't even be competing with St. Vincent for indigent care funds.... and we'd be happy to take indigent fund patients and apply for reimbursement if the patient meets the criteria."

Bruce Shaffer, one of the organizers of the Physicians Medical Center, was sworn. He stated that he was a native New Mexican and specialized in internal medicine, pulmonary medicine and critical care medicine. He said that a major portion of his career has been spent in the intensive care unit at St. Vincent Hospital, and he would continue to practice there.

Dr. Shaffer said, "My medical colleagues and I have watched an ever-increasing need for more and improved access to medical and surgical services, and this is why we started Physicians Medical Center. St. Vincent's ability to serve all those who need hospital care has declined in time, and I've watched this over the last 12 years.... At times we are even overwhelmed. The bed capacity

for medical-surgical beds... when I first came here was about 140 to 150 beds. That was 12 years ago. Now, the last I heard, it was about 88, sometimes less.

"The ER is often overrun. Waits to be seen are hours. Waits to be admitted to a bed can be even overnight. We have a team of nurses that spends a lot of their time shuffling patients around in the hospital just to try and make room for those who keep coming in....

"That fact is, Santa Fe desperately needs more access to medical and surgical services. Fully one-third of Santa Feans are going to Albuquerque and other destinations for their care, and most of these are leaving for surgery. These people have already chosen not to come to St. Vincent Hospital; these are our target patients...."

Dr. Shaffer also spoke to a "deterioration in the nursing workforce here in Santa Fe. The proportion of nurses with many years of experience at St. Vincent Hospital has dramatically decreased over the time that I've been here." He said these experienced nurses, who serve as mentors to the newer nurses, have been part of St. Vincent's layoffs that occur every three or four years. He stated that, a couple of months after each layoff, graduate nurses are brought in to fill the vacancies at much lower salaries. Dr. Shaffer said St. Vincent has more recently been filling the vacancies with "traveling nurses... who don't stay long enough to learn how to be efficient at St. Vincent, how to make it work well or to be mentors to our new graduate nurses, and they take positions that local nurses should be taking. We need to nurture, empower and retain our local nurses on a long-term basis. This is central to the principles of Physicians Medical Center."

This concluded the presentations on behalf of PMC.

Mayor Delgado allowed a few minutes for rebuttal from St. Vincent Hospital representatives.

Alex Valdez, general counsel at St. Vincent Hospital, was sworn. He said St. Vincent has every intention to remain a community-based, tax-exempt hospital; and to retain that tax-exempt status, "every citizen in this community will be served.... There's a commitment from St. Vincent Hospital not only to Santa Fe, but to continue to serve the entire central part of New Mexico as we have done since 1865."

Addressing Mr. Sawtell's point that St. Vincent participates in for-profit ventures, Mr. Valdez said that was correct. He said Santa Fe Imaging was one of the for-profit ventures, as was the St. Vincent Same Day Surgery Center. He explained, "Not-for-profits do that oftentimes so that they can generate a profit

in certain of their activities and return that profit back to their nonprofit operation.... We have a responsibility to assure that we operate with a positive margin, and we cannot allow that positive margin to slip.

“That is why you have seen an aggressive campaign waged by St. Vincent Hospital — because we understand the economics of healthcare. And if we find ourselves in a situation where we are confronted with losing profitable services, the question for all of us is going to be, how are we going to continue to maintain those services that are not profitable?”

Mr. Valdez stated that the emergency room “is a vital part of our facility. I ask you: how does the opposing hospital define the services for their emergency room? We know what a full service emergency room calls for.... I think it’s very important to.... ask them, what is your emergency room going to look like?”

Referring to a magazine article entitled “Battle Ready” from Health Leaders, Mr. Valdez read:

If you allow all of these proprietary companies to come in and operate these hospitals that have no exposure in terms of being responsible to care for the medically indigent, you are going to see disintegration of the hospital system upon which we have grown to depend. It doesn’t happen all of a sudden. It is like creeping rot. It takes a while.

This concluded the 30-minute presentations from each side.

A break was taken.

Mayor Delgado asked for a show of hands from members of the general public wishing to speak on either side of this issue.

### **AMENDMENT OF AGENDA**

Noting the large number of people who had raised their hands, Councilor Heldmeyer commented that people who were here for the next case on the Agenda, Las Soleras General Plan Amendment, approached several Councilors during the break. She said these individuals expressed concern that the Council would not get to them tonight because it was already nearly 9:30 p.m., and had asked that Las Soleras be postponed if the Council thought that would be the case.

Las Soleras representatives Mark Basham and Linda Tigges indicated that they had no objection to a postponement, but Mr. Basham expressed concern that there be no new noticing requirements imposed on the applicants.

City Attorney Bruce Thompson clarified that there would be no problem provided the postponement was to a date specific.

**Councilor Heldmeyer moved to postpone Case No. M 2001-59, Las Soleras General Plan amendment, to the February 12 Council meeting with the stipulation that it be placed at the beginning of the Evening Session Agenda immediately following liquor licenses.**

**Councilor Lopez seconded the motion, which passed by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbarger voting for, and none against. with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbarger voting for, and none against.**

#### **PUBLIC HEARING (Cont'd)**

Mayor Delgado imposed a one-minute time limit on speakers.

#### **Adolfo Alarid, duly sworn**

Mr. Alarid asked Council to keep the “media blitz from both sides” in perspective in their deliberations.

Mr. Alarid questioned why St. Vincent Hospital didn’t challenge the cancer treatment center now under construction on East Zia Road.

Mr. Alarid stated that his mother, age 91, was recently admitted to St. Vincent Hospital, and he learned that the hospital requires insured patients to pay their deductible before being discharged. He said St. Vincent will also accept titles to vehicles and property as payment.

#### **John Glass, duly sworn**

Mr. Glass said he has been a resident of Santa Fe since 1968, and has been a healthcare administrator 34 years in New Mexico.

Mr. Glass stated that PMC “is proposing an unnecessary duplication of the most expensive and profitable hospital services.” He said PMC’s rate structure will include amortization costs of their loans, which will increase rates. He stated that a similar for-profit hospital in another county has a rate structure that is 66% higher than St. Vincent’s rates.

Steve Flance, duly sworn

Mr. Flance, planner and developer of Rodeo Business Park, said he wished to clarify that Rodeo Business Park was annexed and zoned and master-planned for a campus-type industrial park in 1981. He said construction started in 1986, and the original zoning for this park included hospitals as a permitted use. He stated that this was changed in the late 1980s to require hospitals to be special exceptions, but the ordinance also states that they could be a permitted use.

Frank Moran, duly sworn

Mr. Moran stated that he has been a hospital administrator for 40 years and for the last 15 years has been involved in hospital accreditation activities. He said that, in those 15 years of traveling around the country and looking at healthcare provided for communities, “I have never seen a situation where the opening of a for-profit specialty hospital has been beneficial to the care of patients of the community. St. Vincent is a small tertiary care hospital. It is a vital asset to the community, and it needs a certain critical mass to keep its tertiary status. If that mass is lost, and patients will be lost to a specialty hospital, it may lose the ability to attract some specialists and lose the ability to provide tertiary care. In the worst case if this happens, Norteños will still be able to get tertiary care from a community hospital, but that hospital will be called Presbyterian.”

Ouida MacGregor, duly sworn

Ms. MacGregor, a member of the City Council from 1990 to 1994, said, “I sympathize with you tonight because these are exactly the same arguments we went through when a specialty hospital, as Mayor Delgado will remember, tried to open at that point. What we realized...was that St. Vincent Hospital was a Hillburton hospital and under any circumstances they had to provide healthcare to everybody who needed it in a community, and that they needed viability of paying patients to make it last. The situation today is more extreme than it was then. Many more people lack insurance; many more people have to come to the hospital, come to emergency room for basic care because they cannot receive it anywhere else. The health of the hospital, as we discovered then, and we voted for and protected, with exactly the same arguments — that the land use issue

was not the only issue. The real issue was the health of the community. And we were upheld on that basis at that time.”

Ralph Moya, duly sworn

Mr. Moya said he has been a medical social worker for over 25 years and practices medical social work in health centers in Northern New Mexico.

Mr. Moya stated that he supports St. Vincent Hospital, which provides services for Santa Fe County and Northern New Mexico. He said the uninsured population is substantial in Northern New Mexico, and he has to deal with these people at St. Vincent Hospital as a discharge planner and case manager. He stated that it is a major problem trying to find after-care for people.

Mr. Moya said a for-profit hospital “will take away from a nonprofit hospital.”

Anthony Dominguez, duly sworn

Mr. Dominguez, 3039 Cliff Palace, Santa Fe, said he supported the PMC proposal “because I think people need a choice.... As much health insurance and hospital insurance as we pay, I think I need a choice to where I want to go besides Albuquerque.”

Michael Moore, duly sworn

Mr. Moore, a resident of Santa Fe for three years, said he lived for many years in Rochester, NY, where there are private hospitals, community hospitals and university hospitals “living cheek to jowl with each other.” He said Rochester is widely regarded as one of the most capable medical communities in the East and possibly in the U.S.

Mr. Moore said, “I keep trying to imagine whether there would be any community in this state, in the country, in the world that would not welcome the addition of added sophisticated medical capability to that community at a time when the demographics are such that people are getting older, the baby boomers are going to have to find a way to pay for so much that’s going on. This is a desperately needed capability.”

Dr. Thomas Viscuzi, duly sworn

Dr. Viscuzi [spelling unknown], representing the Santa Fe emergency physicians, said some very misleading information has been presented, and he wished to clarify that “nobody gets sent home from the [St. Vincent] emergency room that needs to be admitted to the hospital.”

Dr. Viscuzi said, “This is a national crisis. Everywhere it is overcrowded. Our volume has grown by over 50% from 1992 through 2002. Trauma services have increased. All of this is going on when there’s a decrease in budget allocations to medicine in this country.

“The uninsured population is growing. So we have to look carefully at what other medical services are going to be provided in this community and what they will do for the safety net — the safety net is key here, because all of these patients are being seen in the St. Vincent emergency room right now.”

Dr. Viscuzi stated that the “police bring all the people from the street that need to go to jail to the emergency room. EMS brings all people to the emergency room. Transfers from all over Northern New Mexico come to the emergency room to get an x-ray or a CT scan at night.”

Stan Rosen, duly sworn

Mr. Rosen, a retired professor of labor and industrial relations, pointed out that St. Vincent Hospital has collective bargaining. He said this is important because workers have some say at the workplace, making it a better workplace with better services. He stated that quality of care is always better under those circumstances.

Carol Fitzpatrick, duly sworn

Ms. Fitzpatrick, one of the appellants and a director of Su Vida, a nonprofit children’s behavioral health center, asked the Council to consider the impact that PMC will have on many kinds of health service. She said, “Not only does this group not propose to offer any new services of any kind, but they are threatening a wide range of interconnected services.”

Ms. Fitzpatrick stated that Su Vida served about 1,000 families in 2002, “and many of them are among the families that would be affected by the opening of a hospital that siphons off funding. About 17% of our families are unable to pay and 75% of them are underinsured. I’m speaking tonight about mental healthcare because that’s my work, but it’s the same with all kinds of healthcare. In a town our size, many uninsured and underinsured families will suffer.... ”



Tony Martinez, duly sworn

Mr. Martinez stated that he was born in St. Vincent Hospital, and in his later years has sophisticated medical needs that St. Vincent takes care of. He commented, "It seems like the new hospital has planned their business around me, because all the things I need, they're not going to offer."

William Christison, duly sworn

Mr. Christison said, "It's obvious to me that no for-profit hospital is there for all of the people. A nonprofit hospital that is there for all people has got to be a major asset to any community that has one. And I think all of you... ought to work very hard to keep a healthy one here in this town."

Richard Taft, duly sworn

Dr. Taft, executive director of La Familia Medical Center and a member of the Santa Fe County Health Planning Commission and 30-year resident of Santa Fe, stated that La Familia provides care to the uninsured, indigent and low income. He stated that, last year, 53% of La Familia's patients were uninsured, and in 2002 that rose to 70%. He questioned whether PMC would be willing to compete for those uninsured patients.

Citing PMC's remarks tonight that they would be willing to compete provided they were paid from the Indigent Fund, Dr. Taft pointed out that the Indigent Fund does not pay for all uninsured patients. He stated that La Familia only receives compensation for 16% of La Familia's uninsured patients. He stated, "By competing for those dollars, that means there's less for us, and it will have a direct impact on us."

Dr. Taft stated that a community health center in Las Cruces has been impacted by the new hospital, and is cutting back on special services and its residency program. He predicted that the same thing would happen in Santa Fe.

Terri Jerry, duly sworn

Ms. Jerry urged support of the appeal. She questioned why a special exception is necessary if, as PMC's lawyers have stated, "there are no land use issues."

Ms. Jerry said she visits Rodeo Business Park "two or three times a week and there's double parking along the streets, so there are some parking issues."

Jack White, duly sworn

Mr. White stated that he has been employed as a nurse at St. Vincent Hospital for 25 years.

Mr. White said PMC will not have an obstetrics unit, pediatrics unit, mental healthcare unit or gynecology unit. He stated, "These people are not competing at all; they are skimming, and they are only in it for the money."

Mr. White suggested that the Council ask the "35% of the people who are leaving St. Vincent and leaving Santa Fe for care, how many are required to do so by their insurance providers." He commented that, many times, Presbyterian and Lovelace prefers to have surgeries and elective procedures done for their members in their own hospitals in Albuquerque. He said, "The presence of another boutique hospital won't help that a bit."

Bill Johnson, duly sworn

Dr. Johnson stated that he is a psychiatrist employed by St. Vincent Hospital and works at Su Vida, the child and family mental health center. He said, "Our mental health center is fragile, often ill-prepared to deal with the traumas that befall the families of this community. St. Vincent Hospital has a behavioral health service. Physicians Medical Center doesn't plan one.

"St. Vincent Hospital has consistently committed itself to the red ink of providing such services as part of its community mission. PMC has not made any such commitment. I worry that the availability of mental health and substance abuse services in this community are at risk, and it will be worse if PMC is built....Until PMC offers such a service, I can't support its presence in our community."

Mark Simpson, duly sworn

Mr. Simpson stated that he is 48 years old and has asthma, anemia and heart trouble, and just lost his insurance. He said he will be receiving Social Security approval, which will get him into Medicare and Medicaid, but "in the meantime I'm wondering what will happen. I have been admitted three times to St. Vincent in the last three years. I've never had a problem.... This is as good a hospital as I've ever been in."

Mr. Simpson stated that he asked PMC representatives what they would be able to do for him in this interim time before he receives Medicare and Medicaid, and was told they would have to get money from Santa Fe County first. He said,

"They can't help me, so I really don't them.... I pray to God that we can keep St. Vincent."

Frieda Romero, duly sworn

Ms. Romero stated that she was in full support of St. Vincent Hospital, because she had her children there when she had no insurance. She said her husband went to work for St. Vincent a few years later.

Ms. Romero said St. Vincent's services have been improving for a long time. She stated that she and her children have not been sent home from the emergency room, so she did not know why people were saying that was the case.

Carolyn Sigstedt, duly sworn

Ms. Sigstedt stated that this vote should not be solely on land use issues, because the Council "has the power to make special exceptions when it comes to our community's health and quality of life."

Ms. Sigstedt stated that, in this time of escalating medical costs and staffing crises in nursing, "I think it's imperative that we support [St. Vincent Hospital] which is offering quality health equally to all economic groups. And the only way it can do that is to supply services that are paid for as well as services that are not paid for."

Ms. Sigstedt said, "I feel that this new venture may be right for the shareholders, but there are other shareholders in this community, and I wouldn't want you to discount the public's future."

Erica Sonnier, duly sworn

Ms. Sonnier said she supported Physicians Medical Center because, as a former employee of St. Vincent Hospital, and speaking to Dr. Lucas and vice presidents, "the employees do not have a voice at St. Vincent. Often they will bring up subjects are ignored, retaliated against."

Ms. Sonnier stated that she has spoken with the founders of PMC, has talked to the Legislature and reviewed the sole provider community bill, and has read reports by professors at Yale about the "benefit to the community when there is a for-profit and nonprofit hospital in the same community. It does increase the quality of care — perhaps not from physicians, but from clerks, technicians and nurses."

Don Shina, duly sworn

Dr. Shina stated that he has been in Santa Fe for seven months and works at St. Vincent Hospital as medical director of the Cancer Treatment Center. He said he was attracted to Santa Fe because of the “mission and vision of St. Vincent Hospital, which is to provide excellent care to all segments of the population. Obviously, we have a different population in Northern New Mexico than we do in many parts of the country. We have to be totally cognizant of the fact that we are responsible not only for the care of the insured, but the uninsured as well. We cannot ignore a very significant portion of the underserved population.

“I’m a little concerned about the argument that we are being provided a freedom of choice. Unfortunately, that freedom of choice will be to a limited segment of our population. The resources that will be lost to a second hospital are significant and they may impact the mission and vision that St. Vincent has to the entire population of this county and this part of the state.”

Alan Bleiweiss, duly sworn

Mr. Bleiweiss stated that he is Foundation director at St. Vincent Hospital.

Mr. Bleiweiss questioned why no one had discussed the issue of water, because hospitals use an extraordinary amount of water.

Mr. Bleiweiss stated that, as a member of a judicial nominating commission several years ago in Florida, he learned that “a court of appeals decision does not trump a Supreme Court opinion, so I think what Mr. Herdman brought to you tonight is incorrect.”

Mr. Bleiweiss also stated that Mr. Sawtell had mentioned that Santa Fe County decides how \$1.6 million is spent on community programs, “when in actuality that money is part of the sole community provider dollars that comes to St. Vincent Hospital, and with input from the County is distributed to organizations — not run or guaranteed by the County.”

Mario Pacheco, duly sworn

Dr. Pacheco said he has been a family practice physician in Santa Fe for 14 years, and is director of the family practice residency program.

Dr. Pacheco pointed out that emergency room waits are very long around the country and in Santa Fe because patients who are fully insured often cannot get in to see their primary care physician.

Dr. Pacheco said, "We are training physicians at St. Vincent Hospital because we know from good data nationally that physicians tend to stay close to the place that they train. This is a money-losing operation for St. Vincent Hospital.... [but will] eventually avoid those long emergency room waits and improve the health of the public by providing more primary care physicians to the community."

Delma DeLora, duly sworn

Ms. DeLora said she has been a nurse at St. Vincent Hospital for 40 years.

Ms. DeLora stressed the importance of everyone in Santa Fe and Northern New Mexico having access to healthcare, which St. Vincent Hospital provides.

Addressing a remark by Mr. Sawtell that a sign was posted at St. Vincent Hospital in late 2000 directing doctors to send their patients home because there were no beds available, Ms. DeLora said such a sign was posted "on a day last year when the flu season was so bad we were packed." She stated that doctors were asked to write dismissals on patients they already planned to dismiss or transfer to rehab in order to open up beds for people waiting in the ER.

Elizabeth Lujan, duly sworn

Ms. Lujan, an RN at St. Vincent Hospital and district president of nurses in technical unit, spoke in favor of healthcare access for everyone.

Ms. Lujan said she represents three hospitals in New Mexico, in Taos, Santa Fe and Albuquerque. She stated that one of the hospitals is being managed by a for-profit organization, and will handle insured patients only; otherwise, they are transferred to either Santa Fe or Albuquerque to receive care. She said insured patients will be treated at the hospital or at Presbyterian in Albuquerque.

Ms. Lujan stated, "Healthcare for profit is alive and well in New Mexico. Healthcare for patients is not."

Lily Sandoval, duly sworn

Ms. Sandoval, a nurse at St. Vincent Hospital for 29 years in pediatrics, stated that there are nurses there who are in favor of the for-profit hospital "mainly because of St. Vincent's history and its treatment of some of its employees. But this is really not the issue. We need to keep St. Vincent open and viable so that the community can have healthcare access for all."

Ms. Sandoval stated that she was concerned that the new hospital would lead to a two-tier healthcare system, “those that have and those that have not.”

Bob Wilmot, duly sworn

Mr. Wilmot said he is retail and catering manager at St. Vincent Hospital. He stated, “Tonight, I delivered a catering to the El Norte auditorium for 12 couples, couples who are going to have a baby. Services like these will be in jeopardy if a for-profit hospital comes to Santa Fe.”

Gregg Bemis, duly sworn

Mr. Bemis stated that he was former board chairman at St. Vincent Hospital.

Mr. Bemis said, “To have good competition you have to have a level playing field. In this case we do not have a level playing field; we have apples and oranges. A for-profit and a non-profit are two entirely different beasts, and this is absolutely not fair.”

Patricia Krizman, duly sworn

Ms. Krizman stated, “Basically I want you to remember that the nonprofit is responsible to us, and its mission is to serve us. The for-profit is responsible to its investors and its primary responsibility is to make as much profit as it can, period.”

Ms. Krizman said St. Vincent “is one of the best hospitals in the United States. I’ve been to every major medical center from Berkeley south, and have never received the level of care I have at St. Vincent — not only from the nursing staff but from the doctors in the emergency room.

“Once a nonprofit is in there fighting against a profit hospital, the profit hospital has the edge. The nonprofit cannot raise its costs beyond a certain point, even when that causes them to perhaps close their doors to some of the programs that the community needs but are not vital for life and death.”

Crystal Von Wiberman, duly sworn

Ms. Von Wiberman [spelling unknown] stated that she was senior healthcare recruiter at St. Vincent Hospital. Addressing Mr. Sawtell’s remarks that there were more than 1,100 nurses in Santa Fe, she said there are only 845, and St. Vincent Hospital employs 506. Addressing PMC’s assertions that St. Vincent is

opening more beds because of competition, she said, “This is completely false. We are able to open more beds we are nearly RN staffed. We have hired 56 RNs and decreased our RN vacancy rate nearly 70% in less than six months. The national RN turnover rate is 22%. St. Vincent is only 9.6% The national RN vacancy rate is around 11%; ours is only 4.4%.

“The RN shortage is significant on a national basis. Therefore, travelers are a temporary necessity — not to take away local jobs, but to keep all beds open until we can hire staff. And we are.”

Gary Frank, duly sworn

Dr. Frank said he was chief medical officer at St. Vincent Hospital and has been a practicing physician in Santa Fe for 18 years.

Dr. Frank said, “Unlike members of PMC, I stand to gain no profit if you support my point of view, and I think it’s important that you remember that.

“We are not losing 35% of our business to Albuquerque; that is false, that cannot be substantiated.... Part of those numbers are also patients who live in Santa Fe County and Edgewood. They’re closer to Albuquerque. We’re never going to gain those patients. There are many services that we don’t provide at St. Vincent Hospital — cardiac surgery and other services — and we’re never going to capture those as long as we don’t provide those services. We have solid numbers based on services we provide that show we retain 85% to 90% of our business.”

Maria Olds, duly sworn

Ms. Olds stated that she is a nurse case manager in the critical area, and spoke in support of St. Vincent Hospital and asked the Council to vote against the proposed new hospital.

Ms. Olds pointed out that St. Vincent Hospital provides healthcare services “to all members of our community and our entire state, to all people who are insured and uninsured, to all levels of financial income, and all patients with both medical and surgical needs.”

Ms. Olds said she daily coordinates free services for patients, including free medication and transfers to skilled nursing facilities, which St. Vincent provides at no charge. She said St. Vincent also provides lodging for families who are tourists, as well as families within New Mexico who have a family member at St. Vincent who is a patient.

Marsha Chavez, duly sworn

Ms. Chavez said she has been a nurse at St. Vincent since 1988, and for the last three years as a case manager. Addressing the issue of choice, she pointed out that an insured person's choice is based on who their insurer is, and an uninsured person has only one choice — to go to where indigent people can receive healthcare services. She asked the Council to vote against the PMC proposal.

Laurie Glascock, duly sworn

Ms. Glascock, a nurse case manager at St. Vincent Hospital, asked the Council to vote against the PMC proposal. She said she feared that many services now provided by St. Vincent to the uninsured and underinsured would disappear if PMC is allowed to locate here. She cited medications, taxi vouchers and free meals.

Robert Currier, duly sworn

Mr. Currier said he supported both sides.

Mr. Currier stated that he supports a community hospital because it provides a safety net for the less fortunate, but "the notion that a 20-bed hospital is going to mean the demise of an organization the size of St. Vincent is ludicrous, in my opinion."

Mr. Currier said Las Cruces' problems with its community hospital were because of mismanagement.

Mr. Currier said it sounded like "restraint of free trade" for the Council to deny PMC's request, and he did not want to see his tax dollars spent on the City trying to defend itself against a lawsuit and then having to pay a settlement. He pointed out that "the model in all populated cities around the country is a community hospital exists side by side with for-profits that are of comparable size."

John Tubbs, duly sworn

Mr. Tubbs, a CPA and director of St. Vincent Hospital Foundation, commented, "I understand arithmetic quite well. This proposed hospital will be far more damaging, in my opinion, than hospital management at St. Vincent has pointed out."



Mr. Tubbs urged the Council to “take a bold stand and vote against this proposed hospital.”

Mr. Tubbs suggested that PMC and St. Vincent Hospital combine their talents and work to build a stronger St. Vincent Hospital.

Dorian Dodson, duly sworn

Ms. Dodson, executive director of St. Elizabeth Shelter, stated that she has more than 1,000 clients a year, and these are the people who are treated at St. Vincent Hospital. She said allowing PMC to build a facility here would erode the ability of St. Vincent Hospital to provide these services. She stressed the importance of supporting St. Vincent Hospital because it takes care of people who have no other means of support.

Carl Ray, duly sworn

Dr. Ray, a psychiatrist and medical director for mental health services at St. Vincent Hospital, expressed concern that these services would be at risk because this program does not make a profit and St. Vincent relies on its profit-making programs, which could be threatened by allowing PMC to locate here. He said, “If these services have to be curtailed, the County will have to decide if it is going to provide funds for that. If that happens, we’ll all be taxed and we’ll all be subsidizing and paying for the new hospital’s profits.”

Jimmy Gonzales, duly sworn

Mr. Gonzales stated that local doctors are behind the PMC proposal, and “we’re always encouraging local people and people in Santa Fe to invest in the community, and I think that’s what they’re doing.”

Mr. Gonzales said, “As I understand it, we already have private investment in St. Vincent with the Same Day surgery where there are certain doctors in Santa Fe that participate with the hospital in this private venture. I would encourage St. Vincent to work with these doctors and bring them back in, do things with them, if this Council should vote the other way, that they not take any retaliatory actions against these doctors, try to take away their services, but bring them in. These are good people, honest, decent doctors that saved my wife’s life. They tried to overmedicate my wife and she almost died. And the response of the

nurses was to go ahead and tell me to leave and call security. And when I asked for a supervisor, it was the supervisor that was trying to give the medication. This shows how the doctors that took care of her and brought her back to health are very important.”

Paul Kovnat, duly sworn

Dr. Kovnat said he has been a practicing physician for 28 years in Santa Fe and his son is a doctor at St. Vincent Hospital.

Dr. Kovnat commented, “Healthcare dollars are very precious. St. Vincent Hospital is very imperfect, but the way is to work together to make it better and not to take money out of the community.” He asked the Council to support St. Vincent and not the proposed hospital.

Cathy Abeles, duly sworn

Ms. Abeles stated that she was board chair at St. Vincent Hospital for two years and a member of the board for eight years, and is currently on the La Familia Medical Center board.

Ms. Abeles expressed concern that the proposed new hospital “will skim off five, ten, fifteen percent of the profitable items, causing St. Vincent to have to curtail their services and it will not be in the best interest of the whole community.”

Rick Abeles, duly sworn

Mr. Abeles stated that PMC will “make a good show” of providing unprofitable services at a minimal level. He said every profitable dollar that PMC makes “will be a dollar that’s taken away from St. Vincent that isn’t available to provide vital healthcare services to other members of the community who can’t afford that healthcare.”

Mr. Abeles pointed out that PMC would therefore not be providing true competition; rather, it would only be aiming for the profitable dollars.

J. R. Damron, duly sworn

Dr. Damron, a physician at St. Vincent Hospital, asked the Council to observe the physician’s credo, “First of all, do no harm,” in looking after the interests of the citizens of Northern New Mexico who are underinsured, uninsured, and

economically disadvantaged, and to vote against the PMC for-profit hospital's proposal.

David Barker, duly sworn

Mr. Barker, a member of the group proposing the PMC, said he did not believe this case involved the issue of the delivery of healthcare and competition, but would address these matters because the Council was not restricting comments.

Mr. Barker noted Dr. Lucas' remarks quoted in today's *Santa Fe Reporter*:

Wherever there are for-profit hospitals, the cost of healthcare does not go down; costs go up.

Mr. Barker read from a Stanford Business School healthcare management article in May 2002:

Advisors conclude that even a handful of for-profit hospitals operating in a community can lower healthcare expenditures without harming the quality of healthcare to patients. Areas with the presence of for-profit hospitals had approximately 2.4% lower levels of hospital expenditures.

Mr. Barker read from a front-page article in *The New Mexican* published on September 28, 1999:

Lucas cites evidence of the hospital's unpopularity. 'Fifty percent of the employees surveyed say they wouldn't recommend St. Vincent to their relatives. We've got to stop hiding. We've got to stop blaming everybody else for our problems.' He blames nurses and other frontline staff for not being friendly and responsive enough to patients. Lucas thinks that doctors are a pretty disloyal bunch, too, badmouthing St. Vincent at cocktail parties around town and discouraging potential financial donors and steering patients to Albuquerque.

Mr. Barker commented, "I propose to you that the community has a right to choose."

Cathleen Christison, duly sworn

Ms. Christison said she is a member of the St. Vincent Auxiliary, and represents the Auxiliary on the St. Vincent Hospital Foundation board.

Ms. Christison stated that she and her husband have been patients at St. Vincent "18 times in 23 years for everything from kidney stones to hernias to in-patient surgeries, outpatient surgeries and radiation. And we have uniformly been treated with excellent, warm, caring care.... I think St. Vincent is a great community resource and we'd be foolish if we did anything to endanger it, and I think that this new hospital would do just that."

Fletcher Catron, duly sworn

Mr. Catron said the testimony he has heard so far this evening from St. Vincent supports is "that they wish to continue to give you second-rate care."

Mr. Catron pointed out that "the bleeding off of these patients from St. Vincent isn't going to happen if St. Vincent is a better hospital, and the PMC is going to make it a better hospital. It has done that already, the threat of it, and it will continue to do so."

Yara Pitchford, duly sworn

Ms. Pitchford stated that she is on the Foundation board but is speaking as a concerned citizen.

Ms. Pitchford stated that this situation was not unique to Santa Fe, and many municipalities "are looking towards their legislators and their council people to step in and bail out community hospitals that are facing what they are saying is competition, but it's not competition, because what is happening is that the community hospital is being left with emergency care, pediatrics, obstetrics, outpatient clinic services, and those services that provide no profit."

Ms. Pitchford urged the Council "to show some strength and protect our community by not letting this become a two-tiered health system."

Phillip Riggs, duly sworn

Dr. Riggs, a family physician in practice in Santa Fe for 23 years, said he helped develop Santa Fe Imaging Center, "which for a while successfully joint-ventured with St. Vincent, has spent many times at the table trying to put things together with St. Vincent, developed Santa Fe Family Health Center, and we are one of the few practices that have successfully recruited primary care physicians to the community. We see over 120 patients a day currently. I will continue to expand primary care services and will continue to try to bring patient services and primary care services to Santa Fe.

"I joined the group over here about a year after they had started, after multiple attempts to try to joint venture with St. Vincent unsuccessfully. This has always been our first choice, but our second choice is the need to expand primary care and medical services in this community."

David Macias, duly sworn

Dr. Macias, a family physician and a member of the organizing group of Physicians Medical Center, stated that he has been practicing medicine for 26 years, 19 of them in Santa Fe.

Dr. Macias stated that he receives "testimonials everyday, quite often in my office, telling me that the patients want choice. They want diversity." He stated that he serves patients from all walks of life, whether they have financial support or not, including the indigent. He added, "I believe in the Physicians Medical Center. I believe that we can provide this community and continue to work with St. Vincent to make this a much better place for all of us."

Unidentified, duly sworn

The speaker did not identify herself but indicated that she supports Physicians Medical Center and is a native New Mexican born and raised in Mora. She said she has worked at St. Vincent for seven years as a charge nurse and staff nurse in the intensive care unit during that period. She stated that, in that time, she has seen "a downsize of our hospital."

The speaker said she did not think St. Vincent has exercised its potential to provide the community with the "good quality care that it deserves" because beds are closed and patients have to wait in the ER. She stated that the St. Vincent Hospital administration "fails to recognize the importance of investing in our local workforce of nurses, and we are a victim of our own circumstances."

Steve Lucero, duly sworn

Dr. Lucero said he did a lot of "soul searching for me to get involved in the Physicians Medical Center."

Dr. Lucero commented that, while he has addressed the Council in the past on "how bad for-profits are," he has also seen "what they've done after that. I've seen them squash for-profits, say they've set up something, and then set up something differently."

Dr. Lucero said he was “tired of seeing my own patients leave Santa Fe to get their treatment somewhere else. They tell me, ‘It’s not you, Doctor, we’d rather have you do the surgery, but can’t you go to University to do it, can’t you go to Presbyterian Hospital to do it?’ I’d like to see that come back.

“If everything was so rosy, you have to ask yourselves: Why is the oncology center opening? Why is there a separate ENT hospital? Why is Eye Associates so busy? Why are all the orthopedic surgeons leaving? Why is one of the neurosurgeons leaving? There is a shortage. [PMC] will try to bring patients back to Santa Fe and doctors back to Santa Fe. If we can’t, then we go out of business. We can only make things better.”

Cheryl Ziegler, duly sworn

Ms. Ziegler stated that she is a member of the organizing group for the PMC.

Ms. Ziegler said she has heard many comments while collecting petition signatures supporting the PMC, including that St. Vincent held 21 town meetings “and that the employees were required to attend.... They were told about the layoffs in Las Cruces of 134 employees when MountainView Hospital opened, and at that time, in some respects some felt threatened with their jobs. That’s what they told me. They told me that they wouldn’t sign the petition because they were afraid for their jobs.”

Unidentified, duly sworn

The speaker, who did not identify herself, stated that she has received telephone calls from “more than three physicians in this community who told me that they had received phone calls from hospital administration saying that if they offered any kind of support to this new endeavor, they would lose their hospital privileges.” She commented that she found these tactics “frightening and something that I thought only existed on TV.”

The speaker said she thought the people trying to put together the Physicians Medical Center were “good people and good doctors and they care about the community and the health of this community.”

Marty Garcia, duly sworn

Mr. Garcia spoke in support of the Physicians Medical Center. He said, “Picture a second hospital being in Santa Fe, and picture this second hospital challenging the main hospital, and what a concerted effort of having a great

world-class medical facility” that would be consistent with Santa Fe’s world-class status and its world-class restaurants and galleries.

Albert Dubor, duly sworn

Dr. Dubor [spelling unknown], ER medical director at St. Vincent Hospital, stated that physicians leave Santa Fe because of gross receipts taxes and extremely high percentage of insured patients. He said, “Our ER group is 20 physicians, going to 23 this summer, and we believe the mission of St. Vincent Hospital is to care for all patients, insured, uninsured. We see 67,000 patients a year. We do it well.

“There are concerted efforts at the current time, not based on the threat of a new hospital, to expand our ER, to expand critical care services. This discussion started long before the threat of a new hospital came around. John Lucas’ office has been open to me. I’ve spent hours with him discussing these issues. I’ve even spoken to the board directly about these issues. It’s all about the mission, and that’s taking care of every patient in this community, and that includes the uninsured, and the new hospital will not benefit that.”

Paul Duran, duly sworn

Paul Duran, member of the Board of Santa Fe County Commissioners, said that, in 1999, then-Commissioner Javier Gonzales spearheaded an effort to work with St. Vincent Hospital to address the problems it was experiencing relative to their employees and other healthcare benefits and programs. He said Commissioner Gonzales felt the County should be involved because of the amount of money it was giving to St. Vincent from the Indigent Fund.

Commissioner Duran also stated that, in the last four or five years, the County has been working with the hospital to develop programs dealing with mental healthcare and buses in the community. He said, “My only concern tonight is that, if you approve this particular project, the programs that we’ve worked on so hard the last four years might be jeopardized....

“I think where they are proposing to go to is not an appropriate place for them; and from a land use point of view, that could give you the opportunity to make a decision that the community supports, which is to deny this request.”

Robert Song, duly sworn

Mr. Song [spelling unknown] stated that he has lived in Santa Fe for 50 years and St. Vincent has been invaluable to him in terms of surgery, and he now goes

to its pulmonary rehab clinic three times weekly, and thought it an excellent hospital. He added, however, that as a citizen of Santa Fe, "I would like a choice of another hospital, and I don't see why I can't have that.'

This concluded public comment.

**Councilor Pfeffer moved to postpone deliberation on this subject to the next regularly scheduled Council meeting, based on the lateness of the hour and the complexity of the issues.**

**Councilor Ortiz seconded the motion with the caveat that the public hearing portion of this item be closed at the next Council meeting.**

Councilor Bushee questioned why the Council could not make a decision tonight.

Councilor Wurzburger said she agreed to attend tonight's meeting under duress because she wanted to hear what the public had to say, but was extremely exhausted.

Councilor Wurzburger said she did not want to see the Council making what she considered to be a very important decision at a late hour, as it has done on other issues; and she also felt the Council needed to collectively hear an opinion from the City Attorney, which has not yet occurred.

Councilor Chavez stated that he was ready to vote tonight, and did not think it fair to the community or Councilors to delay deliberations.

Councilor Bushee apologized to Councilor Wurzburger, as she recognized she was under a lot of stress because of the recent loss of her mother. She added, though, that the legal opinion she requested from the City Attorney was available to anyone who was interested. She added that she has been receiving an average of 50 telephone calls a day at her home and has not been able to return any of these calls for the last seven days based on suggested direction from the City Attorney.

Councilor Heldmeyer pointed out that the Council could expect at least a couple of hours of questioning and deliberation before being able to vote, and it was already 10:30 p.m. She said several Councilors have expressed the opinion that they "don't do real well at 12:30 or 1:00, and I'm probably one of them."



Councilor Coss supported the motion, pointing out that he thought the Council should be able to take its time on making what would be a very important decision.

**The motion to postpone passed on the following Roll Call vote:**

**For: Councilor Pfeffer; Councilor Wurzburger; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz.**

**Against: Councilor Bushee; Councilor Chavez.**

Mayor Delgado stated that this item would appear on the Evening Session Agenda of the February 12 meeting.

*[The Afternoon Session Agenda was continued.]*

#### **MATTERS FROM THE CITY CLERK**

None.

#### **COMMUNICATIONS FROM THE GOVERNING BODY**

##### **Councilor Wurzburger**

Councilor Wurzburger distributed copies of a resolution, forwarded to her by members of the board of the Santa Fe Incubator, requesting support from the Legislature.

##### **Councilor Chavez**

Councilor Chavez distributed copies of a resolution in support of the Jemez y Sangre Regional Water Plan.

##### **Councilor Coss**

Councilor Coss distributed copies of a resolution supporting the Trust for Public Land in its efforts to facilitate the planning, design and development of a new park and new plaza on the Santa Fe Railyard. He stated that there will be a public hearing on this resolution at the Public Works Committee.

Councilor Coss stated that he would sponsor Chief Lennen's proposed ordinance regarding pets in Santa Fe, and would like to meet with her to work on it.

Councilor Coss stated that the Plaza barriers on Old Santa Fe Trail, going toward the Cathedral, need to be moved so the area can be swept.

#### Councilor Bushee

Councilor Bushee stated that she wished to introduce a resolution on interpretive trails for Fort Marcy. She said she did not have copies of it, but would like to have it sent through the committee process.

#### Councilor Heldmeyer

Councilor Heldmeyer stated that she had distributed a short resolution, proposed by staff, giving them 60 days to come up with a policy for putting private businesses in City right of way, and saying that the City will not make decisions along those lines until a policy is in place.

Councilor Heldmeyer apologized to anyone trying to reach her by telephone, as both of her voice mailboxes have been full — the first time this has happened since she has been a Councilor, and the result of organized telephone calling campaigns from two different groups. She said staff has kept track of all of the emails and phone calls and letters, including those pertaining to the hospital, so it would not be necessary to place those calls again.

#### Councilor Lopez

Councilor Lopez stated that the mayor of Santa Rosa and a New Mexico State representative have both conveyed to her that they are very much enjoying workouts at the Marcy Complex, but had noted that the floor in one of the handball courts "is just a mess" because of the poor playing surface.

#### Councilor Ortiz

Councilor Ortiz thanked Sweeney Center staff who put together tonight's event on 24 hours notice. He commended them on their tireless efforts.

#### ADJOURN

Its business completed, the Governing Body adjourned the meeting at approximately 10:45 p.m.

Approved by:

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Mayor Larry A. Delgado

ATTESTED TO:

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Yolanda Y. Vigil, City Clerk

Respectfully Submitted:

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Judith S. Beatty, City Council Reporter